UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,499	04/09/2004	James D. Webb	P0011232.00	1416

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 April 2009</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 and 4-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1 and 4-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the

fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114,

and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the

previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 04/06/2009 has been entered.

2.   Claims 1, 4-20 remain pending in this application.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

4.   Claims 1, 4-14, 16-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Nelson et al. (hereinafter Nelson) (U.S. Patent No. 6,480,745

B2), Stawikowski et al. (hereinafter Stawikowski) (U.S. Patent Publication No.

2002/0046239 A1) and further in view of Trusheim et al. (hereinafter Trusheim)

(U.S. Patent No. 6,385,589 B1).

        A.   Claim 1 has been amended now to recite a system for exchanging

        medical data, the data exchange system comprising:

i.   means for acquiring medical data (Nelson; col. 5, lines 14-31);

ii.   means for handling medical data wherein medical data may be stored, analyzed, or displayed (Nelson; col. 7, lines 21-39);

iii.   a plurality of web services for performing a data exchange function between the means for acquiring medical data and the means for handling medical data, wherein one of the web services is a translation web service having an input method configured to receive medical data in a first format and configured to return the medical data in a plurality of output formats, wherein translation web services is further configured to receive a request for one of the plurality of output formats from invoking application, and the output method is configured to return the medical data to the invoking application in the requested output format.

(1)   Nelson fails to expressly teach a plurality of web services for performing a data exchange function between the means for acquiring medical data and the means for handling medical data. However, this feature is well known in the art, as evidenced by Stawikowski.

In particular, Stawikowski discloses a plurality of web services for performing a data exchange function between the means for acquiring medical data and the means for

handling medical data (Stawikowski; abstract, paragraphs: 0001-0002, 0004-0005).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Stawikowski with the motivation of to be able to exchange data directly on an IP network (Stawikowski; paragraph: 0006).

(2)   Nelson fails to expressly teach a translation web service having an input method <u>configured to receive</u> medical data in a first format and <u>configured to return the</u> medical data <u>in a plurality of output formats, wherein translation web services is further configured to receive a request for one of the plurality of output formats from invoking application, and the output method is configured to return the medical data </u>to <u>the</u> invoking application in the requested output format. However, this feature is well known in the art, as evidenced by Trusheim.

In particular, Trusheim discloses a translation web service having an input method <u>configured to receive</u> medical data in a first format and <u>configured to return the</u> medical data <u>in a plurality of output formats, wherein translation web services is further configured to receive a request for one of the plurality of output formats from invoking application, and the</u>

output method is configured to return the medical data to the

invoking application in the requested output format

(Trusheim; col. 8, lines 1-15, col. 11, line 25 to col. 12, line

11, fig. 3).

It would have been obvious to one having ordinary skill in

the art at the time of the invention to include the

aforementioned limitation as disclosed by Trusheim with the

motivation of translation data files into a common format

(Trusheim; col. 8, lines 1-15).

B.   Claim 4 recites the system of claim 1 and Stawikowski discloses

the plurality of web services further includes an analysis web service

(Stawikowski; paragraph: 0001-0002, 0004-0005, 0006).

The obviousness of modifying the teaching of Nelson to include the

plurality of web services (as taught by Stawikowski) is as

addressed above in the rejection of claim 1 and incorporated

herein.

C.   Claim 5 recites the system of claim 4, Stawikowski discloses the

analysis web service (Stawikowski; paragraph: 0001-0002, 0004-0005,

0006) and Nelson discloses an analysis method for performing a

requested data analysis function on the specified data and returning the

analysis results to an invoking application (Nelson; col. 7, lines 7-21, col.

11, lines 11-45).

The obviousness of modifying the teaching of Nelson to include the

plurality of web services (as taught by Stawikowski) is as

addressed above in the rejection of claim 1 and incorporated

herein.

D.   Claim 6 recites the system of claim 1, Stawikowski discloses the

plurality of web services further includes a storage web service

(Stawikowski; paragraph: 0001-0002, 0004-0005, 0006).

The obviousness of modifying the teaching of Nelson to include the

plurality of web services (as taught by Stawikowski) is as

addressed above in the rejection of claim 1 and incorporated

herein.

E.   Claim 7 recites the system of claim 6, Stawikowski discloses a

storage web service (Stawikowski; paragraph: 0001-0002, 0004-0005,

0006) and Nelson discloses a method for writing data to a data storage

system (Nelson; col. 10, line 59 to col. 11, line 10).

The obviousness of modifying the teaching of Nelson to include the

plurality of web services (as taught by Stawikowski) is as

addressed above in the rejection of claim 1 and incorporated

herein.

F.   Claim 8 recites the system of claim 6, Stawikowski discloses a

storage web service (Stawikowski; paragraph: 0001-0002, 0004-0005,

0006) and Nelson discloses a method for retrieving data from a data

storage system (Nelson; col. 10, line 59 to col. 11, line 10).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

G.   Claim 9 recites the system of claims 7 or 8, wherein the data storage system is any of a relational database system; a file system; an XML file system, or a medical device (Nelson; col. 10, line 59 to col. 11, line 10).

H.   Claim 10 recites the system of claim 1 wherein the plurality of web services further includes a multifunction web service (Stawikowski; paragraph: 0001-0002, 0004-0005, 0006).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

I.   Claim 11 recites the system of claim 10 wherein the multifunction web service invokes any of a translation web service, an analysis web service, and a storage web service (Stawikowski; paragraph: 0001-0002, 0004-0005, 0006).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

J.   Claim 12 recites the system of claim 11 wherein the multifunction
web service is a data log service for informing a first data storage system
of a new data set entered into a second data storage system
(Stawikowski; paragraph: 0031, 0036).

> The obviousness of modifying the teaching of Nelson to include the
> plurality of web services (as taught by Stawikowski) is as
> addressed above in the rejection of claim 1 and incorporated
> herein.

K.   Claim 13 recites the system of claim 12 wherein a new data set
comprises a record of a monitoring session performed by a medical device
(Nelson; abstract, col. 10, line 59 to col. 11, line 10).

L.   Claim 14 recites the system of claim 11 wherein the multifunction
web service is a session retrieval service (Stawikowski; paragraph: 0031,
0036) and for retrieving monitoring session data recorded by a medical
device and stored in a data storage system (Nelson; abstract, col. 10, line
59 to col. 11, line 10).

> The obviousness of modifying the teaching of Nelson to include the
> plurality of web services (as taught by Stawikowski) is as
> addressed above in the rejection of claim 1 and incorporated
> herein.

M.   Claim 16 recites the system of claim 1 wherein the means for
acquiring medical data is an external medical device having telemetric
communication with an implantable medical device for receiving data from

the implantable medical device and storing the data (Nelson; abstract, col.

10, line 59 to col. 11, line 10).

N.   Claim 17 recites the system of claim 1 wherein the means for

acquiring medical data is an external monitoring or therapy delivery device

capable of acquiring and storing medical data (Nelson; abstract, col. 5,

line 66 to col. 6, line 34).

O.   Claim 18 recites the system of claim 1 wherein the means for

acquiring medical data is an implantable medical device (Nelson; abstract,

col. 5, line 66 to col. 6, line 34).

5.   The amendment to system claims 19 and 20 reflect the same changes

made to system claim 1, and is therefore rejected for the same reasons given

above for system claim 1 and incorporated herein.

6.   Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Nelson et al. (hereinafter Nelson) (U.S. Patent No. 6,480,745 B2), Stawikowski et

al. (hereinafter Stawikowski) (U.S. Patent Publication No. 2002/0046239 A1),

Trusheim et al. (hereinafter Trusheim) (U.S. Patent No. 6,385,589 B1) and

further in view of Official Notice.

A.   Claim 15 recites the system of claim 11 wherein the multifunction

web service is an enrollment web service for registering a patient or

medical device record newly enrolled in a first data storage system into a

second data storage system.

Nelson does not explicitly disclose an enrollment web

service for registering a patient or medical device.

However, the Examiner takes official notice that it was well

known in the information network arts to registering a patient

and/or medical device in a web service. The motivation

would have been to obtain and provide information about the

patient and/or the medical device securely and more

efficiently.

Response to Arguments

7.   Applicant's arguments filed 03/05/2009 have been fully considered but

they are not persuasive. Applicant's arguments will be addressed below in the

order in which they appear.

        A.   In response to applicant's argument about Trusheim does not teach

        "a translation web service having an output method configured to return

        medical data in a plurality of output format"; Examiner respectfully submits

        that Trusheim teaches "the translator receives data file having a first

        format and translates the data file into an output file having a second

        format" in col. 8, lines 1-15; and Examiner would like to submit that a

        recitation of the intended use of the claimed invention must result in a

        structural difference between the claimed invention and the prior art in

        order to patentably distinguish the claimed invention from the prior art. If

        the prior art structure is capable of performing the intended use, then it

        meets the claim. Trusheim teaches translating the data from one format to

        another, therefore it teaches a structure necessary to configure the data in

        a plurality of formats.

B.   In response to applicant's argument that there is no suggestion to
combine the references, the examiner recognizes that obviousness can
only be established by combining or modifying the teachings of the prior
art to produce the claimed invention where there is some teaching,
suggestion, or motivation to do so found either in the references
themselves or in the knowledge generally available to one of ordinary skill
in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.
1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).
In this case, Nelson teaches information network interrogation of an
implanted device , the communication system permits communication
between implanted medical device and a computing resource capable of
storing and distributing patient and device data (Nelson; abstract); Nelson
fails to expressly teach "plurality of web services, and Stawikowski
teaches this feature. Stawikowski teaches "a communication system on a
global network of the Internet, Intranet or Extranet type, between at least
one automation equipment offering one or more automatic control
functions and at least one remote device, allowing the Simple Object
Access Protocol (SOAP) to be used in an automation equipment, by
means of at least one WEB service and/or one WEB client able to interact
with a program of the automation equipment." In paragraph 0001. The
motivation to combine these references would be to be able to exchange
data directly on an IP network (Stawikowski; par. 0006). Also, Nelson fails
to expressly teach a translation web service, which changes the format of

the data; however Trusheim teaches "web service" in col. 11 line 24 to col.

12, line 11, and "a translator, which receives data file having a first format

and translates the data file into a second format" in col. 8, lines 1-15. The

motivation to combine these references would be to translation data files

into a common format (Trusheim; col. 8, lines 1-15), which can be

understood by any process accessing information bus 34, such as the

common format provided by translator 31(Trusheim; col. 8, lines 58-62).

Conclusion

8.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to DILEK B. COBANOGLU whose telephone

number is (571)272-8295. The examiner can normally be reached on 8-4:30.

9.   If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Christopher L. Gilligan can be reached on 571-272-6770.

The fax phone number for the organization where this application or proceeding

is assigned is 571-273-8300.

10.   Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

/Dilek B Cobanoglu/
Examiner, Art Unit 3626
7/1/2009